

Re: PL/2026/04254 - OBJECTION

This submission is made on behalf of residents of Baskerville.

EXECUTIVE SUMMARY

We object to Application PL/2026/04254, which seeks retrospective permission to construct a hard-surfaced track between the access and the 'permitted building', and respectfully request that the application be refused or, in the alternative, deferred pending consideration of the wider retrospective position on the site.

Although the application consistently refers to a 'permitted building' the fact is that the nature of the site means that the 'permitted building' would have to stand on what is currently unpermitted and unauthorised illegal development. In fact, the unpermitted building work at the site means the permitted building cannot be constructed.

There are multiple grounds to refuse the proposal. The applicant has not:

- demonstrated a need for the track
- specified the final construction
- provided usage estimates
- shown that the track would provide access to an approved entrance
- identified any recognisable private benefit.

In addition, the proposal fails Malmesbury in several respects:

- fails to preserve or enhance the character or appearance of the Conservation Area
- harms the significance of the Conservation Area
- is detrimental to biodiversity
- prevents the positioning of replacement trees as conditioned
- increases highway risk
- provides no public benefits capable of outweighing its harm.

The application should be refused with a full plan of remedial works to follow.

Request 1: If the Council is not minded to refuse PL/2026/04254 at this stage, residents ask that no decision is taken until all related retrospective applications and enforcement matters concerning the site have been submitted and considered together.

Request 2: If the Council is minded to accept PL/2026/04254 then we request that our conditions to the approval are considered.

(See SECTION 3 – CONCLUSION/CONDITIONS)

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SECTION 1 - REASONS FOR REFUSAL

1.1 Concern that this application is being considered prior to related applications

We are deeply concerned that this application is being considered before the other expected retrospective applications for related unauthorised works and any other intended works are received.

It is neither reasonable nor possible to determine this application before the future of the building to which the track connects has been determined. The application is therefore premature.

- E.g. If the applicant fails to provide the required details for the building, or if the retrospective application is refused, the building may ultimately have to be removed. In that event, the track could lead nowhere, may not be required, or may need to be changed.
- If this track application is approved prior to the retrospective application on the other unauthorised building works and any other intended works, retrospective application on the building is in effect being forced through, because a strong argument for the building would be that the council have already approved a driveway to it.

1.2 Reasons for refusal with reference to the Planning Application

These are the detailed reasons for refusal:

1.2.1 Ref: Block Plan – the information is misleading and/or incomplete

- The block plan is incomplete as there should be a blue line around the adjacent land owned by the same owner.
- The Officer is entitled to, and for consistency should, decide this retrospective application on the basis that the Application Form confirms it relates to an agricultural unit of less than five acres and to this small site alone.
(See also 1.2.2 below.).
- The Block Plan indicates that the increased area of proposed hardstanding in front of the proposed barn extends across the frontage formed by an unauthorised retaining wall.

- It also indicates a substantial solidified area to the south-west of the barn, between the two unauthorised retaining walls running west from the building to the field boundary. That area is not referenced in this retrospective application and has no stated purpose. This omission should be addressed.
- If the proposed trackway is approved, other unauthorised works that have not yet been included in any retrospective planning application would in effect be incorporated. This ought to be addressed by rejecting this application or deferring consideration until a full retrospective application is submitted by the end of August 2026, as required by Planning Enforcement.
- This application relies on elements of the unauthorised works that have been undertaken directly relating to the barn building.

1.2.2 Ref: Ownership Certificates and Agricultural Land Declaration - The Applicant has answered 'No' to the question: 'Is any of the land to which the application relates part of an Agricultural Holding?'.

(See Reference to the Block Plan above.)

1.2.3 Ref: Materials - The application identifies the proposed materials for the track as hardcore, gravel and concrete, but it does not identify the finish for the full length of the track. It is therefore unclear whether the proposal is for a concrete road, a rubble track made up of the identified materials, or some other finish. This must be clarified. The application cannot be determined without this information and should therefore be refused. For the avoidance of doubt, we would object to any non-permeable construction.

1.2.4 Ref: Biodiversity and Geological Conservation - The unauthorised work to construct the track has caused serious damage to local biodiversity. The retrospective proposals unacceptably compound this.

- While we understand the Section 73a exemption that 10% Biodiversity Net Gain is not enforced in these circumstances, our understanding is that the local planning authority has a duty to consider how the unauthorised work has harmed important habitats. The fencing at the end of the drive and continued down the field stops roe deer from entering the behind-Waitrose woodland which they previously used as a birth site and provided a hider-type concealment habitat for calves.
- The profiling of the track, introduction of hardstanding, other earthmoving and the erosion of the hedge line has caused unnecessary harm to a large

area of previous meadowland and hedgerow. The proposal should not be considered without a full plan of remediation.

1.3 Reasons for rejection with reference to the Planning Statement:

1.3.1 Incorrect statement:

Ref: Assessment - Section 4.1 *'This assessment is brief because the Council has permitted the construction of a building, with an informal access track shown on the application plans. The building is currently under construction as approved in PL/2025/06034 in accordance with the plan shown in insert 1.'*

This statement is incorrect.

The Planning Enforcement Team have stated to us verbally and in writing that **all** the work that has taken place in connection with the permitted building so far is unauthorised. The current requirement by Enforcement is that there must be a retrospective planning application covering all these works and plans for location of the replacement trees by the 31st August 2026 or an Enforcement Notice that the unauthorised work must be removed and requiring the planting plans will be issued.

It would be therefore be premature to agree this application ahead of and without consideration of all the proposals in the full retrospective planning permission or taking account of the intended Enforcement Action.

1.3.2 New requirement for permanence:

Ref: Section 4.2 *'This application seeks to retain a solid track which has been laid to provide machinery access so that the building can be built, and to finish it and landscape it. It follows the line of the 'informal' track on the approved building drawings.'*

No requirement for a solid track during the construction phase was identified or permitted.

(See *SECTION 4 - APPENDICES - OBSERVATION 1: No permanent track required.*)

There is no evidence that a solid track was required for construction, particularly given that all construction to date is unauthorised, including the significant use of unauthorised materials such as breeze blocks and hardcore. No permission was sought to import the significant volume of material used to construct the unauthorised trackway. Substantial unauthorised earth-moving and ground reshaping have taken place across the site, none of which has been documented or submitted as part of any planning application. The building works carried out to date are also not in accordance with the approved development. See *Fig 1*.



Fig 1: Construction as at 2nd June 2026. All features are unauthorised.

Ref: Section 4.3 *'In practical terms the track will mean that the potential for mud to be created by tractors, is minimised, and so will be beneficial.'*

This single benefit identified by the applicant, namely that the track may reduce mud created by tractors, has no measureable or or practical benefit and cannot be given positive weight in determining this application. The tractor to be housed at the site is for work on the field.

1.3.3 Failure to demonstrate operational necessity

Ref: Section 1.4 *'This application seeks planning consent for a short, approximately 80m length of track running along the field edge and as shown on the Block Plan. This will give all-weather access to the building.'*

Ref: Section 2.5 *'On the southern edge a kerb has been installed to retain the landscaping works. The bank side has been cleared and partially replanted, and the kerb stops soil slipping down the slope onto the new track.'*

Ref: Section 4.4 *'The only difference between the approved informal access route and the surface the subject of this application will be visual. The visual impact will be negligible. The track runs along the field edge, at the high end of the field. No public rights of way or dwellings look down on the track.'*

The applicant has not demonstrated any operational requirement for a solid track for the agricultural use of the barn, nor has it explained how the planning policy being relied upon is relevant to this application. As described in 3.13 it has in fact, voluntarily stated in precursor applications that no built track is required.

The track as constructed does not mirror the informal track on the approved building drawings. It is significantly wider and where it abuts the building is

envisaging a much larger hardstanding area extending to the field boundary. The additional width and increased area proposed by the applicant has not been justified by the applicant and does not appear to be required for the stated purposes of the operation of the approved building.

The Block Plan, Fig. 3 below, indicates that the increased area of proposed hardstanding in front of the barn extends across the frontage formed by an unauthorised retaining wall. If the proposed trackway is approved, other unauthorised works that have not yet been included in any retrospective planning application would in effect be incorporated.

The Block Plan shows a significant additional solidified area to the west of the unauthorised building work between two unauthorised retaining walls. It extends to the boundary of the field. There is no explanation or justification for this construction in this application and no grounds to consider it as part of this application other than to confirm it is unauthorised work that is not part of this application, or as a reason for the rejection of the application.

1.3.4 Negative Impact on Conservation Area

Ref: Section 4.5 *'There will be a fleeting glimpse from the A429, but only for a person standing on the grass verge, which is not recommended, as shown below. This is a negligible visual impact. Photo 3: View from the Verge of A429 (January 2026).'*

Ref: Section 4.6 *'There are therefore operational benefits, but no adverse landscape or other impacts. KCC3138 PS July 26 6.'*

The track as constructed has involved substantial and unnecessary earthworks. The cut into the southern slope has not been justified and appears excessive. Earth moving to the north has unnecessarily altered the landform and profile within the Conservation Area. The profiling of the track, introduction of hardstanding, other earthmoving and the erosion of the hedgeline has caused unnecessary harm to a large area of previous meadowland and hedgerow.

The kerbing is also excessive, is not reasonably required and could be avoided. The location and nature of the construction, including the kerbing, has prevented the conditioned planting of replacement trees for the felled trees under Application PL/2025/04217. The depth of infill and construction undertaken and proposed, based on the submitted photographs, is not required for any purpose identified by the applicant and certainly not required for the passage of tractors.

The proposal provides detail about the proposed hedgerow and planting to the north of the solid track, but does not indicate where the conditioned replacement trees are to be planted.

This major omission makes the application incomplete. The applicant should be required to show the proposed replacement tree locations on the Block Plan. For clarity, the trees already shown have been planted and are not the conditioned replacement trees.

(See also SECTION 4 - APPENDICES - OBSERVATION 2: Importance of Conservation Area)

1.3.5 Ref Section 4.8 of Planning Statement: ‘*Proposed development is in accordance with development plan.*’

In Section 4.8 of the Planning Statement the Applicant states: ‘*Planning consent can therefore be granted as the proposed development accords with the development plan.*’

The proposed development is **not** in accordance with the development plan PL/2025/06034 (Approved).

The only reference to a track is in the Block Plan labelled Rev F, which indicates an ‘*informal access to the building*’. This informal access is shown by hashed lines and links to the south-eastern side of the building. There is no reference to a requirement for a solid track during the construction phase or for continuing operational purposes.

The approved plan has the vehicle access at the **north** elevation – the opposite end to where the track reaches. See *Fig 2 below*.

There is therefore a major inconsistency between the block layout and the approved floor and elevations plan in terms of orientation. It appears from the information provided that the entrance doors would be approximately 3 metres above the ground level when you take the hillside location/or the current unauthorised works into account and if we presume that the building is proposed to be on top of what has already been built. As a North entrance does not appear to be feasible it is presumed that the entrance would be located on the South East elevation. This is the exact opposite of the previously submitted and approved plan. Currently, the track in the Block Plan in PL/2026/04254 (Fig 3 below) is not shown connecting to an entrance that is part of the approved plan.

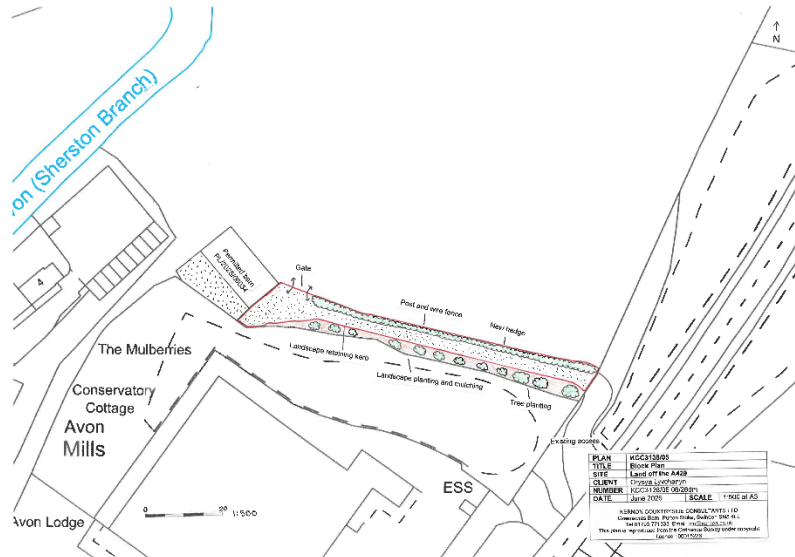


Fig 3: Block Plan: PL/2026/04254

1.3.6 Ref Section 3.1 of the Planning Statement - NPPF: The applicant has not fully demonstrated that the proposed track is required for the development or diversification of the agricultural business under National Planning Policy Framework – Paragraph 88.

1.3.7 Ref Section 3.2 of the Planning Statement - Core Strategy: The applicant has not fully demonstrated that the proposed track is required to allow adaptation to modern agricultural practices under the Core Strategy 2015. It is not compliant with Policy 34 as it is not consistent in scale with its surroundings.

SECTION 2: FACTS AND CONSIDERATIONS SUPPORTING OUR OBJECTION

2.1 Topography details not supplied: The building height and elevation plans did not show how land levels would be adjusted to accommodate the building. The statement that the land on which the approved building is sited is flat was also relied upon by planning officers when considering the prior approval applications, but it is factually unsupported. It is regrettable that these issues were not identified at the earlier delegated stage, but the misleading information supplied by the applicant should not now be overlooked.

2.2 Relevant contextual information not supplied: The applicant has not referenced the relationship between this site and Baskerville, which directly overlooks the site and is broadly at the same height as the proposed track, and its position in the Conservation Area.

It must be noted, and taken into account, that Baskerville is a major walking and cycling route into Malmesbury, and that views of the field, which forms part of the Malmesbury Conservation Area, are an important element of the river valley landscape. These proposals would unnecessarily introduce increased built infrastructure into this sensitive environment.

2.3 Full landscape impact not demonstrated: The proposal for the solid track is not, of course, a raised building in its own right. However, the track and the large area of hardstanding proposed with it would also erode and detract from the open nature of the site and the local landscape character by introducing prominent new built form. Consequently, the proposal would harm the character and appearance of the area. It would fail to preserve or enhance the character or appearance of the Malmesbury Conservation Area and would harm its significance. This is a harm in the planning balance.

2.4 Inconsistent statements about vehicular use and access: Further, it has not provided any indication of existing and anticipated vehicular movements. Consequently, it has not adequately demonstrated that the proposal would not result in an increase in the intensification of use of the access.

(See also SECTION 4 - APPENDICES - OBSERVATION 3: Access to highway previously rejected).

The applicant has previously and unambiguously stated that a solid track is not required for its purposes at the site, and has not made any case that this position has changed.

SECTION 3: CONCLUSION/CONDITIONS

Our immediate request is that the Planning Officer decides and confirms either that this application will be refused, or that no decision to approve it will be taken until all other retrospective applications connected with the approved building have been received and can be determined together.

Alternatively, we request that any decision must take full account of the enforcement action that will follow if the required applications are not received by 31 August 2026.

If the Officer is minded to accept the applicant's proposal then, without prejudice to our objections, we would request that the following points are conditioned:

3.1 Adequate Environment Agency access is provided

Reason: It is important to understand from the plan that the field is on a steep hill, partially flood-plain and at the bottom of the hill is a river with households on the opposite river bank. This is a crucial part of the River Avon that takes water away from Malmesbury, essential for the town's flood management. The Environment Agency regularly maintain part of this flood plain in the field that would be within the blue line. Large logs often float by and if impeded could cause blockage and would need to be accessed and taken up the field by the Environment Agency.

3.2 Details of materials and construction to be submitted and approved prior to construction with permeable surface

Reason: We would require that because the track is at the top of a steep hill leading down to the river - and opposite properties on Baskerville prone to flooding - that there is a planning condition that whatever finish there is to the track it must be permeable, and the construction details and finish must be subject to officer approval. As noted, the application identifies the proposed materials as being hardcore, gravel and concrete but does not identify the finish for the full length of track.

3.3 Suitable deer access must be provided so that the applicant's sheep are kept in but deer can still access adjacent woodland.

Reason: Their habitual access point was at the top right corner of the field at the end of the Waitrose fence. A full plan to offset the bio-diversity loss caused by the track must also be required.

3.4 No work is carried out on the trackway as a result of this potential approval until the other elements of the field (the blue line area that should have been part of this application) so far developed but not part of the permitted development have been resolved. (Subject of course to the five-year limitation which would potentially need to be renegotiated with the local authority.)

3.5 No other trackway to be constructed for access to the field or barn.

3.6 Proposal for hedge planting and maintenance plan to be submitted and approved prior to planting

Reason: there should be a requirement to maintain the hedge.

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3.7 Proposal for tree planting for replacement trees under previous condition to be submitted and approved prior to track construction.

3.8 Parking or storage of vehicles or materials on the trackway is prohibited and temporary structures are prohibited.

Thank you for your consideration.

SECTION 4 – APPENDICES – PLANNING HISTORY

OBSERVATION 1: No permanent track required

A. Ref: Application PL/2023/11065: Agricultural building for the storage of hay and machinery. (Prior Notification Rejected)

There is no reference to any requirement for a track. In section 3.6 Siting, the application states:

*‘The siting is discretely located **on level land*** out of the flood plain, adjacent to a strong hedge/belt of trees bordering a Waitrose supermarket site.’*

***Note:** This factually incorrect. This is a steep hillside location.

B. Ref: Application PL/2023/03637 In this earlier public application for full planning permission for the proposed building (rejected by Wiltshire Council and on Appeal) the applicant had said in a Planning Statement dated May 2023:

‘4.4: The application site will be used in conjunction with the Bradford-on-Avon site and the Westbury site. However, it must be noted that these are approximately 21-26 miles from the application site.’*

‘4.5 Due to the distance of the sites, to transport tractors and machinery (which would take much longer than regular vehicle transport) would be unreasonable. Therefore, a tractor, chain harrow and other machinery to maintain the land will be kept in the building.’

***Note:** In PL/2025/06034 the applicant has confirmed the Westbury site is not relevant to its application.

and

Ref: Planning Application PL/2022/04275, in the Planning Statement dated May 2022, an almost identical proposal to the approved building, the Applicant stated:

‘1.3 Currently the land is undermanaged. It is the Applicant’s intention to improve the condition of the grass to be used for hay production and possibly the grazing of livestock, and to bring the land back to a higher standard of agricultural management.’

*‘1.4 The building is proposed in connection with the enhanced management. **It will mostly be used in summer, and no hardstanding is proposed.**’*

*‘2.3 The building is proposed at the south-west of the site. The proposed siting has been chosen based on the existing vegetation that would provide screening for the building. **Most of the access will be taken in the summer months when***

the ground is dry, therefore no track or hardstanding is proposed between the existing access track.'

(Our highlighting in bold).

Also

Ref: Planning Statement July 2025 – Section 2.1:

The applicant states: *'the use of this building will be for management of this parcel of land'*.

With reference to the above statements our conclusions are:

- The applicant's position is clear: for the intended purposes of the approved building, no hardstanding or track is required.
- The applicant has submitted no information, and made no case, to show that this position has changed.
- It should also be noted that the use of the approved building to house animals, which the Applicant has previously suggested, (and suggested to residents as recently as April this year), and therefore any associated transport, is specifically prohibited in the conditions of the prior approval decision.

OBSERVATION 2: Importance of Conservation Area

The conclusion of the Planning Inspector who rejected the appeal against the refusal of the full application PL/2023/03637 for an identical building (in a slightly different position but on equally sloping ground) in December 2024 stated the following about the importance of the Conservation Area:

Conservation area

'7. The appeal site is located within the Malmesbury Conservation Area (MCA). The significance of the MCA is in part derived from its topography including steep slopes edged by the River Avon. The town has a rich history as a market town and a centre for the cloth industry which is reflected in many of the historic buildings which exist in the town and contribute to the significance of the MCA along with the river valleys, vegetation and open spaces. The field in which the appeal site is located is part of a river valley and due to its open nature contributes to the significance of the MCA.'

'8. The building would be located on sloping ground and the plans do not demonstrate how the land levels would be adjusted to accommodate the building. Nevertheless, due to its mass, bulk and position towards the top of the slope, the building would be an obvious, assertive incursion into the site which would be visible in public vantage points from the A429 and through gaps between buildings to the north. The utilitarian materials of the proposed building,

whilst not unexpected for an agricultural building would contrast unacceptably with the existing, natural character of the site. The building, in combination with the proposed additional hardstanding areas, would erode and detract from the open nature of the site and the local landscape character by introducing prominent new built form. Consequently, the proposal would result in harm to the character and appearance of the area.'

'9. Therefore, having regard to my duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act (1990) (the Act), the proposal would fail to preserve or enhance the character or appearance of the MCA and would harm its significance.'

OBSERVATION 3: Access to highway previously rejected

The Inspector who decided the appeal against the refusal of PL/2023/03637 in December 2024 considered the access from the site onto the Highway. He concluded:

'No indication has been provided of existing and anticipated vehicular movements. Consequently, it has not been adequately demonstrated that the proposal would not result in an increase in the intensification of use of the access. The site benefits from an existing access although the adjacent highway verges are outside of the appeal site. I cannot be certain that adequate visibility can be achieved from this access, to ensure it is safe for the anticipated level of vehicular movements.'

He assessed this Highway issue as a harm in the planning balance. He rejected the appeal.

END.